



LTV
K-12 Education Access Channel
1200 South Barr St.
Fort Wayne, IN 46802
260.467.1135



**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Implementation of Section 621(a)(1) of the Cable
Communications Policy Act of 1984 as Amended
by the Cable Television Consumer Protection and
Competition Act of 1992

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MB Docket No. 05-311

COMMENTS OF FORT WAYNE COMMUNITY SCHOOLS

Fort Wayne Community Schools (FWCS) appreciates the opportunity to file comments on the Second Further Notice and Proposed Rulemaking (“FNPRM”) in the above-referenced docket. Fort Wayne Community Schools, located in Fort Wayne, IN is the largest school corporation in the state. FWCS operates an educational access channel cable cast on cable providers Comcast and Frontier, with a potential combined viewership of 80,000 subscribers. FWCS strongly opposes the tentative conclusion in the FNPRM that we should treat cable-related, “in-kind” contributions required by a franchising agreement as “franchise fees.” These in-kind provisions can include, such items as those that allow our programming to be viewed on the cable system, providing cable service to schools, government and safety facilities and libraries. The inclusion of these provisions as a deduction to the franchise fees of 5% to the LFA would result in the loss of over \$300,000.00 annually to FWCS, the community and surrounding educational entities. FWCS strongly opposes the allowance of using fair market value to determine the amount to be considered a franchise fee as to do so will lead to arbitrary deductions; and is in opposition of the long-standing agreement in place since 1981 from the cable operator that such obligations are not franchise fees.

The previously mentioned educational channel is utilized for locally produced programming providing local content in the community interest that is not available on other franchised cable systems. These programs include, but are not limited to, school board meetings, local sports, individual school news and nationally recognized educational programming.

Fort Wayne Community Schools rejects the implication in the FNPRM that PEG programming is for the benefit of the local franchising authority (LFA) or a third-party PEG provider, rather than for the public or the cable consumer. As demonstrated above, Fort Wayne Community Schools provides



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valuable local programming that is not otherwise available on the cable system or in other modes of video delivery such as satellite. Yet the Commission tentatively concludes that non-capital PEG requirements should be considered franchise fees because they are, in essence, taxes imposed for the benefit of LFAs or their designated PEG providers. By contrast, the FNPRM tentatively concludes that build-out requirements are not franchise fees because they are not contributions to the franchising authority. Build out requirements have historically been an effort by the LFA to require the cable company to provide inclusion and opportunity for residents to both be served by the cable provider along with the opportunity for the residents to have PEG services available to them at no cost to the residents, thusly serving the community. PEG programming fits squarely into the category of benefits that do not accrue to the LFA or its designated access provider, yet the Commission concludes without any discussion of the public benefits of local programming that non-capital PEG-related provisions benefit the LFA or its designee rather than the public at large. FWCS objects to this statement in that the benefit of services provided directly impact transparency in Governmental operations, educational value and media sharing and education for schools in the community along with the availability of an informational resource for use of non-profit and support organizations providing services to the residents of the community. While respectful of the LFA's role in administration of the PEG cable channels, these services are in totality given in support of the public, educational and governmental needs of the residents that are cable subscribers, (customers).

We appreciate the opportunity to add to the record in this proceeding.

Respectfully submitted,

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